

EXHIBIT

3

CERTIFIED
ORIGINAL

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1 S54682A

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

4

5

PAINTER'S DISTRICT)

6

COUNCIL NO. 30,)

7

Plaintiff/)

Counterdefendant,)

8

vs.)

No. 08 CV 1163

9

VINCO PAINTING, INC.,)

10

Defendant/)

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Counterplaintiff.)

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Deposition of CHARLES ANDERSON, called as
a witness by the Defendant/Counterplaintiff,
pursuant to the provisions of the Illinois Code
of Civil Procedure and the rules of the Supreme
Court thereof pertaining to the taking of
depositions for the purpose of discovery, before
Karen S. Fogle, CSR, RPR, and a Notary Public in
and for the County of DuPage, State of Illinois,
taken at Berglund & Niew, P.C., Suite 122, 900
Jorie Boulevard, Oak Brook, Illinois, on the 19th
day of May, A.D. 2008, at the hour of 10:30 a.m.

1 **PRESENT:**

2 **JACOBS, BURNS, ORLOVE, STANTON & HERNANDEZ, by**
3 **MR. DAVID HUFFMAN-GOTTSCHLING,**
4 **Suite 1720**
 122 South Michigan Avenue
5 **Chicago, Illinois 60603**
 (312) 327-3443

6
 appeared on behalf of
7 **Plaintiff/Counterdefendant; and**
8 **BERGLUND & NIEW, P.C., by**
9 **MR. JOSEPH P. BERGLUND,**
10 **Suite 122**
 900 Jorie Boulevard
11 **Oak Brook, Illinois 60523**
 (630) 990-0234

12
 appeared on behalf of
13 **Defendant/Counterplaintiff.**
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I N D E X

1

EXAMINATION

2

3 **By Mr. Berglund**

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4 **Certified question appears on page 12, line 19.**

5

E X H I B I T S

6

No. 1 Letter 11

7 **No. 2 Letter 15**

No. 3 Minutes 17

8 **No. 4 Letter 20**

No. 5 Fax 22

9 **No. 6 Signature Page 26**

No. 7 Collective Bargaining Agreement 27

10 **No. 8 Wage Documents 34**

No. 9 Letter 36

11 **No. 10 Answers to Interrogatories 39**

12

(Exhibits Retained by Mr. Berglund.)

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CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND

4

1 (The witness was thereupon duly
2 sworn.)

3 MR. BERGLUND: Let the record reflect
4 that this is the discovery deposition taken of
5 Charles Anderson pursuant to notice and by
6 agreement of the parties in Oak Brook, Illinois.

7 CHARLES ANDERSON,
8 called as a witness by the Defendant/Counterplaintiff,
9 pursuant to the provisions of the Illinois Code of
10 Civil Procedure and the rules of the Supreme Court
11 thereof pertaining hereto, having first been duly
12 sworn, was examined and testified as follows:

13 E X A M I N A T I O N

14 BY MR. BERGLUND:

15 Q Can you state your name and spell your last name
16 for the record.

17 A Charles Anderson, A-n-d-e-r-s-o-n.

18 Q Have you had your deposition taken before?

19 A Yes, I have.

20 Q Approximately how many times?

21 A Five or six.

22 Q You have to answer my questions out loud, not
23 shrug your shoulders or nod your head. Do you
24 understand that?

CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND

5

1 A Yes, I do.

2 Q And if you don't understand my question, tell me
3 so, and I will repeat it for you. Is that
4 understood?

5 A Yes, it is.

6 Q What is your current employment?

7 A I'm secretary/treasurer of Painter's District
8 Council No. 30.

9 Q Is that the highest ranking position of Painter's
10 District Council No. 30.

11 A The highest elected position.

12 Q Briefly, what are your responsibilities on a
13 day-to-day basis?

14 A To manage all the day-to-day functions of the
15 District Council.

16 Q Do any persons report to you?

17 A Yes, they do.

18 Q Who reports to you?

19 A The 13 people employed by the District Council.

20 Q And of those 13, is James Stelmasek one of those
21 persons?

22 A Yes, he is.

23 Q What is his position?

24 A He's a business representative.

CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND

6

- 1 Q Where is your office located?
- 2 A 1905 Sequoia Drive, Aurora, Illinois.
- 3 Q How long have you been at that location?
- 4 A June of 2007.
- 5 Q Where is Mr. Stelmasek's office?
- 6 A At the 1905 address.
- 7 Q Do you have any relationship to the Painter's
- 8 District Council No. 30 Joint Trade Board?
- 9 A Yes, I do.
- 10 Q What is the relationship?
- 11 A I'm the secretary/treasurer of the Trade Board.
- 12 Q Do you serve on the Joint Trade Board from time
- 13 to time?
- 14 A Yes, I do.
- 15 Q How often?
- 16 A Every meeting.
- 17 Q Where are the offices of the Joint Trade Board?
- 18 A They are located at 1905 Sequoia.
- 19 Q Is that the same address as your address?
- 20 A Yes, it is.
- 21 Q Are you a chairman or co-chairman of the Joint
- 22 Trade Board?
- 23 A I'm secretary/treasurer of the Joint Trade Board.
- 24 Q Is there a chairman?

CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND

7

1 A There is.

2 Q Who is the chairman?

3 A Justin Avey.

4 Q Is there a co-chairman?

5 A There is not.

6 Q Are there any rules or regulations that govern
7 the Joint Trade Board?

8 A Yes, there are.

9 Q Are those rules and regulations in writing?

10 A Yes, they are.

11 Q Where are those rules and regulations? Are they
12 contained in the collective bargaining agreement?

13 A Some of the Trade Board issues are in the
14 collective bargaining agreement. Others are just
15 part of the Trade Board policy, which the
16 trustees to the Trade Board adopted.

17 Q With regard to these rules that are not contained
18 in the collective bargaining agreement, are they
19 given to employees of Vinco Painting?

20 A Upon request.

21 MR. BERGLUND: Did you produce those?
22 I thought you said there were no separate rules
23 in response to my production.

24 MR. GOTTSCHLING: I will produce it.

CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND

8

1 That was my understanding. I will produce them.

2 BY MR. BERGLUND:

3 Q One of the documents I asked for were all rules,
4 policies, regulations, and guidelines of the
5 Joint Trade Board. The response I received was
6 that, "Plaintiff states that no such rules,
7 policies, regulations, or guidelines exist beyond
8 the applicable provisions of the collective
9 bargaining agreement which was produced with
10 Plaintiff's Rule 26A-1 disclosures."

11 Just so I'm clear: In addition to the
12 information contained in the collective
13 bargaining agreement, there are separate rules,
14 policies, and regulations of the Joint Trade
15 Board; correct?

16 A There are.

17 Q What do those rules and regulations provide for?
18 The reason I'm asking is I don't have them in
19 front of me.

20 A And neither do I.

21 Q Do you know approximately when those rules were
22 drafted?

23 A It would have been drafted and revised over the
24 last 10, 20 years.

CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND

9

1 Q Do you know if those rules provide for appeals
2 from the decisions of the Joint Trade Board?

3 A They do not.

4 Q Can an employer appeal from a decision of the
5 Joint Trade Board?

6 A The rules of the Trade Board are the decision of
7 the Board. It's final and binding on all
8 parties.

9 Q Does that mean that an employer cannot appeal
10 from a decision of the Joint Trade Board?

11 A They can if they wish.

12 Q What procedures are there which allow for an
13 employer to appeal from a decision of the Joint
14 Trade Board?

15 A They would have to request it.

16 Q And who would they make that request to?

17 A To myself.

18 Q And does that request have to be in writing?

19 A I prefer that.

20 Q Have there been occasions in the last five years
21 where you received a request from an employer to
22 appeal from a decision of the Joint Trade Board
23 which was verbal and not in writing?

24 A Yes.

CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND

10

1 Q When was the last time you received such a
2 request?

3 A I can't recall.

4 Q Are you familiar with Tri-Cor Carpentry?

5 A Yes, I am.

6 Q How are you familiar with Tri-Cor Carpentry?

7 A They are signatory to the collective bargaining
8 agreement.

9 Q Did Tri-Cor make a request to you to appeal from
10 a decision of the Joint Trade Board?

11 A Yes, they did.

12 Q Was that request in writing or verbal?

13 A Both.

14 Q Was their request granted?

15 A Yes, it was.

16 Q Are you familiar with Vinco Painting?

17 A Yes, I am.

18 Q How are you familiar with them?

19 A They are a signatory employer to the collective
20 bargaining agreement.

21 Q Have you met any officers or representatives of
22 Vinco Painting?

23 A I believe I met Vince casually and possibly
24 Denise, also casually. She was in the office,

CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND

11

1 but I'm not 100 percent sure on that.

2 Q And when you say "Vince," are you referring to
3 Vince Angelilli?

4 A Correct.

5 Q Are you familiar with charges brought against
6 Vinco Painting by James Selmasek?

7 A Yes, I am.

8 Q Did Mr. Selmasek bring those charges to your
9 attention?

10 A Yes, he did.

11 Q Do you recall what those charges involved?

12 A The charges involved nonpayment of overtime,
13 nonregistering of jobs, nonregistering of
14 overtime permits, and inadequate binding, I
15 believe.

16 Q Let me show you what I have marked as Deposition
17 Exhibit No. 1 for identification. If you could
18 take a moment to review it and let me know when
19 you are finished, please.

20 (The document was thereupon
21 marked Deposition Exhibit No. 1
22 for identification as of
23 May 19, 2008.)

24

CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND

12

1 BY MR. BERGLUND:

2 Q Is that your signature at the bottom of the
3 first page?

4 A Yes, it is.

5 Q Are you familiar with this document?

6 A Yes, I am.

7 Q Did you mail this to Vinco Painting?

8 A Did I personally mail it to them?

9 Q Yes.

10 A No.

11 Q Do you know who did?

12 A My secretary.

13 Q Who is your secretary?

14 A Linda Anderson.

15 Q What relationship is she to you?

16 MR. GOTTSCHLING: Objection;
17 relevance.

18 BY MR. BERGLUND:

19 Q Does she have any relationship to you?

20 MR. BERGLUND: It goes to show bias
21 if there is some sort of relationship.

22 MR. GOTTSCHLING: You can answer.

23 THE WITNESS: I'm not going to.

24 MR. BERGLUND: Could you please

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EXAMINATION BY MR. BERGLUND

13

1 certify the question.

2 BY MR. BERGLUND:

3 Q Do you know if this was mailed to Vinco Painting?

4 A Yes, I do.

5 Q How do you know that?

6 A Because I have competent staff. When they are
7 given documents to mail, they are mailed.

8 Q Do you know how this was mailed to Vinco
9 Painting?

10 A Certified mail and first class mail.

11 Q I want to make sure: You didn't mail this
12 letter, either personally certified or by first
13 class mail, did you?

14 A I did not.

15 Q Do you know if the mail was returned to your
16 office?

17 A The certified was returned unclaimed; the first
18 class was never returned.

19 Q Do you know why it was returned unclaimed?

20 A I presume -- no, I don't.

21 Q Do you have a copy of the green card showing it
22 was returned?

23 MR. GOTTSCHLING: I think we provided
24 you with that.

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EXAMINATION BY MR. BERGLUND

14

1 MR. BERGLUND: I didn't see the
2 green card.

3 (There followed a discussion
4 outside the record.)

5 BY MR. BERGLUND:

6 Q Do you know approximately how long Vinco Painting
7 has been signatory to a collective bargaining
8 agreement with Painter's District Council No. 30?

9 A Offhand, I do not.

10 Q Is there certain information an employer is
11 required to provide about itself to the union
12 when it does sign a collective bargaining
13 agreement?

14 A Yes, there are requirements.

15 Q What information is that?

16 A Name, address, phone number, Federal I.D. number,
17 State I.D. number, State unemployment number,
18 bond, surety bond, driver's license number, proof
19 of workmen's comp, public liability. There may
20 be more but that's all I recall.

21 Q Let me show you what I have marked as Deposition
22 Exhibit No. 2. If you could take a moment and
23 let me know when you're finished reviewing it.

24 (The document was thereupon

CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND

15

1 marked Deposition Exhibit No. 2
2 for identification as of
3 May 19, 2008.)

4 A Okay.

5 BY MR. BERGLUND:

6 Q Are you familiar with this document?

7 A Yes, I am.

8 Q There are some papers in this Deposition Exhibit
9 No. 2 that weren't contained in Deposition
10 Exhibit No. 1. They were produced -- Deposition
11 Exhibit No. 2 was produced in one group.

12 Do you know if all of these documents were
13 mailed to Vinco Painting that are contained in
14 Deposition Exhibit No. 2?

15 A I do not.

16 Q If you can take a look back at Deposition Exhibit
17 No. 1 starting with the second page, which is a
18 letter to you from James Selmasek dated
19 December 28, 2007, do you see allegations made
20 with regard to a violation of the collective
21 bargaining agreement by Vinco Painting?

22 A Which paragraph?

23 Q On the first page. Do you see allegations made
24 that Vinco violated the collective bargaining

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EXAMINATION BY MR. BERGLUND

16

1 agreement?

2 A Yes, I do.

3 Q How many alleged violations are there?

4 A Seven or eight.

5 Q Your letter states, "The Joint Trade Board would
6 be held on January 18th, 2008, at 9:00 a.m."

7 Did it proceed on that date?

8 A Yes, it did.

9 Q Did anyone from Vinco Painting appear?

10 A They did not.

11 Q Do you know why not?

12 A I do. Do I know why not then?

13 Q Yes.

14 A At the time I did not know.

15 Q At the time this hearing took place on
16 January 17, 2008, had your office received the
17 green card back showing that the notice wasn't
18 delivered by certified mail to Vinco Painting?

19 A It did not.

20 Q Do you know when it was returned to your office?

21 A As you know, the whole thing was unclaimed.

22 We've already discussed it.

23 Q When it came back?

24 A No.

CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND

17

1 Q You don't know when it came back?

2 A No. I don't know when it came back to the
3 office.

4 Q Did you call Vinco Painting when they didn't
5 appear at the Joint Trade Board hearing?

6 A I did not.

7 Q Why not?

8 A They were given an opportunity to appear, and he
9 chose not to.

10 Q Did you serve on the Board at the hearing?

11 A Yes, I did.

12 Q And do you recall who else served on the Board?

13 A Without looking at the minutes, no.

14 Q Did you take notes?

15 A Yes, I did.

16 Q Do you still have your notes?

17 A You have the minutes. That's all I have.

18 Q What did you do with your notes?

19 A Threw them away.

20 Q Let me show you what is marked as Deposition
21 Exhibit No. 3. If you can review it and let me
22 know when you're finished, please.

23 (The document was thereupon
24 marked Deposition Exhibit No. 3

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EXAMINATION BY MR. BERGLUND

18

1 for identification as of
2 May 19, 2008.)

3 BY MR. BERGLUND:

4 Q Are these minutes of the January 17, 2008, Joint
5 Trade Board hearing that you typed up?

6 A Yes.

7 Q Did you type them up yourself?

8 A Yes, I did.

9 Q Do the names in the first paragraph accurately
10 reflect the individuals who served on the Joint
11 Trade Board?

12 A Yes, they do.

13 Q So is it fair to state that where you typed, " In
14 attendance representing Painter's District
15 Council No. 30 were Charles E. Anderson, Aaron
16 Anderson, Brian Muscat, Mark Guethle, and Todd
17 Dotson."

18 Did those individuals then represent
19 persons that served on the Joint Trade Board as
20 union representatives?

21 A That's correct.

22 Q Is it fair to state that Joe Maring, Michael
23 LeGood, and Rick Vandegraft represented the
24 employer on the Joint Trade Board?

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EXAMINATION BY MR. BERGLUND

19

1 A Yes.

2 Q There wasn't a separate award issued, was there?

3 A I don't know what you mean.

4 Q Do these meeting minutes reflect the action taken
5 by the Joint Trade Board against Vinco Painting
6 on January 17, 2008?

7 A Yes, they do.

8 Q Is there any other document that constitutes the
9 decision that was entered against Vinco Painting?
10 I understand that there is minutes from the
11 subsequent meeting approving these minutes, but
12 is there any other -- some boards issue separate
13 awards. I want to make sure I have all the
14 documents.

15 A There were no other awards.

16 Q Is it your testimony, then, that the award issued
17 against Vinco Painting is final and binding?

18 A That is my opinion.

19 Q What is your definition of final and binding?

20 MR. GOTTSCHLING: I'm going to
21 object. You're calling for an interpretation of
22 a term that is in the collective bargaining
23 agreement.

24 BY MR. BERGLUND:

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EXAMINATION BY MR. BERGLUND

20

1 Q Isn't it true that employers can appeal from
2 awards issued by the Joint Trade Board?

3 A They can appeal.

4 Q If an employer's request for an appeal is
5 granted, isn't it true that there is the
6 possibility, then, that the award previously
7 issued by the Joint Trade Board could be
8 modified?

9 A That depends on the facts.

10 Q It's a possibility, isn't it?

11 A I guess anything is possible.

12 Q Isn't it true that's what happened with Tri-Cor
13 Carpentry?

14 A That is true.

15 Q Let me show you what I have marked as Deposition
16 Exhibit No. 4, and let me know when you're
17 finished reviewing it.

18 (The document was thereupon
19 marked Deposition Exhibit No. 4
20 for identification as of
21 May 19, 2008.)

22 A Okay.

23 BY MR. BERGLUND:

24 Q Are you familiar with this document?

CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND

21

1 A Yes.

2 Q How are you familiar with it?

3 A I prepared it.

4 Q Is that your signature on the second page?

5 A Yes, it is.

6 Q Did you or -- did you mail this document to Vinco
7 Painting?

8 A I had it mailed.

9 Q Is it fair to state that you did not personally
10 mail this letter to Vinco Painting?

11 A I did not.

12 Q Do you know if the letter that was mailed to
13 Vinco Painting by certified mail was returned to
14 your office?

15 A It came back unclaimed.

16 MR. BERGLUND: Can you produce the
17 green card?

18 MR. GOTTSCHLING: Yes.

19 MR. BERGLUND: Thank you.

20 BY MR. BERGLUND:

21 Q Can you tell me on what day the award issued
22 against Vinco Painting was made final.

23 A January 17th.

24 Q Is there any requirement for the members of the

CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND

22

1 Board to approve the meeting minutes in order to
2 make the awards final and binding?

3 A There is not.

4 Q Let me show you what I have marked as Deposition
5 Exhibit No. 5. If you can review that for a
6 moment, please.

7 (The document was thereupon
8 marked Deposition Exhibit No. 5
9 for identification as of
10 May 19, 2008.)

11 A Okay.

12 BY MR. BERGLUND:

13 Q Have you seen this before today?

14 A Yes.

15 Q Is any of the writing on this document yours?

16 A No.

17 Q Do you recognize any of the writing?

18 A I do not.

19 Q Is some of the information contained on this
20 Deposition Exhibit No. 5 information that is
21 given to the union when an employer becomes
22 signatory to an agreement with the union?

23 A Could you restate that again.

24 Q Sure. Is the information contained on Deposition

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EXAMINATION BY MR. BERGLUND

23

1 Exhibit No. 5 information that is typically given
2 to the union when an employer becomes signatory
3 to an agreement?

4 A Yes, it is.

5 Q And this document is dated January 24th -- the
6 last digit is not on my copy. Do you know what
7 year this document was generated?

8 A 2008.

9 Q How do you know that?

10 A By the notes at the bottom of the page.

11 Q Do you see the date on the left side of the
12 document of February 11, 2008?

13 A The header, yes.

14 Q Is the Painter's District Council fax number
15 (630) 377-2384?

16 A Yes, it is.

17 Q Do you know to whom this document was faxed to?

18 A I do not.

19 Q Is it fair to state, then, that Painter's
20 District Council No. 30 had on January 24, 2008,
21 the information contained on this document?

22 A Yes, it is.

23 Q After January 17, 2008, did you speak with Vince
24 Angelilli?

**CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND**

24

- 1 A Yes, I did.
- 2 Q How many times?
- 3 A Since then?
- 4 Q After January 17, 2008.
- 5 A Two, possibly three.
- 6 Q Approximately when was the first time you talked
7 with him?
- 8 A I would believe the date would be the 24th of
9 January, 2008.
- 10 Q Did you call him or did he call you?
- 11 A I believe he called me.
- 12 Q And how long did the conversation last?
- 13 A The first part of it lasted possibly two minutes.
- 14 Q And where were you when he called you?
- 15 A In my office.
- 16 Q Was there anyone else on the telephone other than
17 you and him?
- 18 A I do not believe so.
- 19 Q What did he say to you and you say to him?
- 20 A I believe that Vince called. He had received a
21 copy of the findings of the Trade Board.
- 22 Q What did he tell you?
- 23 A That none of it was true and that he was not
24 going to pay it.

CHARLES ANDERSON -- 5/19/08
EXAMINATION BY MR. BERGLUND

25

1 Q What did you tell him?

2 A I told him he was under an obligation to pay it,
3 and that if he wished to appeal it, he needed to
4 provide the District Council with a check made
5 out to the District Council in the amount of
6 \$50,000. He was told that that check would not
7 be cashed, and that he would have to appear
8 before the next Board meeting.

9 Q Did you tell him anything else?

10 A After he told me that I was extorting money from
11 him, I told him that I would see him in court and
12 hung up.

13 Q During that two-minute conversation, did he tell
14 you that he did not receive notice of the
15 hearing?

16 A Yes, he did.

17 Q Is it your position that he didn't receive notice
18 of the hearing that was set for January 17, 2008?

19 A I have no idea if he did or if he didn't.
20 Certified was returned, first class wasn't.

21 Q Assuming he didn't receive notice of the hearing
22 that was set for January 17, 2008, isn't it fair
23 to state that it's unfair to enforce this award
24 that was issued against Vinco Painting?